

IN THE CLAIMS

Amend claim 1 to read:

- B' 1. A method for preparing a grain containing starch with increased total dietary fiber content comprising heating a base grain having a total moisture content of from about 20% to about 45% by weight based on the dry weight of the grain, at a temperature of from about 90°C to about 130°C for a period of about 0.5 to 24 hours, under a combination of moisture and temperature conditions such that the starch does not have its granular structure and birefringence completely destroyed and to provide a heat-treated-grain having an increase in total dietary fiber content ("TDF") of at least 10%.

STATUS OF THE CLAIMS

Claims 1 and 3-41 were pending.

Claims 1, 2, 4, 5, 8, and 10-15 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Whitney, et al. (US 5,972,413).

Claims 3, 6-7, 9 and 16-41 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Whitney, et al. (US 5,972,413) in view of Ferguson, et al. (US 5,300,145).

Claim 1 has been amended. A marked-up copy of the amended claim may be found in Appendix A.

Claims 1 and 3-41 are presented for reconsideration. A clean copy of the pending claims may be found in Appendix B.

REMARKS

Claim 1 has been amended to clarify that the birefringence of the starch has not been destroyed. Descriptive basis for this amendment may be found in the specification at page 9, first paragraph.

Claims 1, 2, 4, 5, 8, and 10-15 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Whitney, et al. (US 5,972,413). Whitney does not anticipate the claims as amended.

Whitney states that his process has the advantageous property of gelatinization (see col. 2, lines 28-30). In contrast, claim 1 of the present invention is limited to starch in which the heat-treated grain is not completely destroyed and thus is not fully gelatinized.

The Examiner found the argument above unpersuasive as Whitney "does not in any way indicate fully gelatinization; there is varying degree of gelatinization." Applicants respectfully traverse. To determine the meaning of cooked or gelatinization, one skilled in the art would look at the entire disclosure of Whitney. The invention of Whitney is "a process for cooking cereal grains." See the Technical Field. Whitney continues by explaining that "when cooked in this way" the grains are "well suited to further processing, particularly shredding." One skilled in the art would understand this to mean that the starch in the grain must be gelatinized (fully cooked) as supported at column 2, line 64. If the starch is not fully gelatinized, the grain will not shred properly and will have undesirable eating properties, texture and appearance. This is further supported at column 2, lines 28-32, which states that the